

TENNESSEE REAL ESTATE COMMISSION MINUTES
April 2-3, 2008

The Tennessee Real Estate Commission convened on April 2, 2008, at 9:11 a.m., in Room 160, Davy Crockett Tower, 500 James Robertson Parkway, Nashville, Tennessee. **The following Commission Members were present: Chairman Charles Haynes, Vice Chairman William "Bear" Stephenson, Commissioner Valerie Joh, Commissioner David Flitcroft, Commissioner Grover Collins, Commissioner Carol Tate, Commissioner Wendell Alexander, Commissioner Gary Cunningham, and Commissioner Isaac Northern. Others Present: Eve Maxwell, Executive Director, Kathryn Wiseman, Staff Attorney, Mandy Brady, Paralegal, and Kelly McDermott, Administrative Secretary.**

The first order of business was the adoption of the agenda (**Exhibit 1**) for the April 2008 Commission meeting. **Commissioner Flitcroft made a motion to adopt the April 2008 agenda; seconded by Vice-Chairman Stephenson; Unanimous Vote; Motion Carried.**

The next order of business was the approval of the minutes from the March 2008 meeting (**Exhibit 2**). **Commissioner Alexander made a motion to approve the March 2008 minutes; seconded by Commissioner Tate; Unanimous Vote; Motion Carried.**

Commissioner Northern and Ms. Wiseman left the meeting at 9:23 a.m. to perform an informal conference and returned at 9:45 a.m.

Cindy Rice-Grissom, CEO of Rice Insurance, reported to the Commission types of claims made in Tennessee. She also presented information on the outcome of claims made, loss ratios, and a breakdown of total claims and total incurred losses to date from 1/1/2003 to 01/01/2009. Ms. Rice-Grissom supplied the Commission with various reports detailing this information (**Exhibit 3**). There was a question and answer period between Ms. Rice-Grissom, the Commissioners, staff, and attendees.

INFORMAL APPLICANT CONFERENCES

Gale Karr, applicant, appeared before the Commission with her Principal Broker Cortney Jones, to seek approval for an affiliate broker license. Ms. Karr disclosed convictions for Possession of Dangerous Drugs (2 counts) and Possession of a Forgery Device in 1996. **Commissioner Joh made a motion to approve; seconded by Commissioner Tate; Unanimous Vote; Motion Carried.**

Randy Gentry, applicant, appeared before the Commission with his Principal Broker Chris Dotson, to seek approval for an affiliate broker license. Mr. Gentry disclosed convictions of Vehicular Homicide by Intoxication and Leaving the Scene of an Accident Involving Death in 2002. **Commissioner Collins made a motion to approve; seconded by Commissioner Joh; Vote: 4 Yes, 5 No; Motion Failed. Mr. Gentry's request was therefore denied.**

Commissioner Tate and Ms. Wiseman left the meeting at 10:58 a.m. to hold an informal conference. Ms. Tate returned to the meeting at 1:55 p.m. after the lunch recess.

LICENSEE/APPLICANT REQUESTS

Mary Kathryn Pigott, applicant, 316821, appeared before the Commission with her Principal Broker Kathryn Adkins, to request a waiver of the 50 mile rule. **Commissioner Alexander made a motion to deny; seconded by Commissioner Flitcroft; Unanimous Vote; Motion Carried.**

Chairman Haynes recessed the meeting for lunch at 11:15 a.m. The Tune Award luncheon was held during the recess. The meeting reconvened at 1:55 p.m.

Commissioner Cunningham left the meeting at 1:55 p.m.

Commissioner Joh and Ms. Wiseman were absent for the remainder of the meeting to perform two informal conferences.

EXECUTIVE DIRECTOR'S REPORT, EVE MAXWELL, EXECUTIVE DIRECTOR

Ms. Maxwell presented the following information to the Commission for review:

- **Complaint Statistics Report (Exhibit 4)** – TREC has a total of **457** open complaints. Four of the 457 open complaints were staff generated Agreed Citations and 25 are complaints against Principal Brokers pursuant to Policy # 07-002 [Errors & Omissions Insurance]. There are 24 new complaints since the March meeting. Nine of those 24 were referred to other agencies. There are 448 complaints in the legal department and 9 open complaints in the TREC office awaiting response. The total number of closed complaints for the current Fiscal Year 2007-2008 is 217. Total Civil Penalties paid in March were \$21,150.00.

Commissioner Northern made a motion to have TREC staff categorize the nature of the complaint on the complaint report so that trends can be analyzed and seminars be taught on the most common complaint types; seconded by Commissioner Collins; Unanimous Vote; Motion Carried.

Commission Alexander made a motion that unless another Commission member objects, when there is a consensus to follow through on the suggestion of a Commissioner, TREC staff should follow through on the suggestion without a motion being made; seconded by Commissioner Northern; Opened to discussion; Commissioner Alexander rescinded his motion; Commissioner Northern rescinded his second. It was decided after discussion that all consents of the Commission be put in the form of a motion and a vote should take place.

- **Licensing Statistics** – Ms. Maxwell presented statistics (**Exhibit 5**) to the Commission on real estate licenses approved in 2008, renewal payment by type (percentage/month), daily totals on new applications and TREC 1 forms, and number of licensees as of April 1, 2008.
- **May meeting & longevity breakfast in Memphis** – Commissioner Northern reported on the plans in place for the May meeting and breakfast honoring those West Tennessee licensees with 40 plus years of service in the real estate industry.

EDUCATION REPORT, DR. KATHY RIGGS, EDUCATION DIRECTOR

- Dr. Riggs presented Courses for Commission Evaluation and Courses Requiring Discussion (**Exhibit 6**). **Vice-Chairman Stephenson made a motion to approve the Courses Presented for Commission Evaluation as presented and the Course Requiring Discussion, "Real Estate Appraisal for Agents"; seconded by Commissioner Collins; Unanimous Vote; Motion Carried. Commissioner Collins made a motion to not approve the Course Requiring Discussion, "From Contract to Keys: The Mortgage Process"; seconded by Vice-Chairman Stephenson; Unanimous Vote; Motion Carried.**

Commissioner Collins made a motion to allow Commissioner Cunningham to review and edit the TREC newsletter before it is sent to the printer; seconded by Commissioner Alexander; Unanimous Vote; Motion Carried.

Commissioner Cunningham rejoined the meeting at 3:20 p.m.

COMMISSIONER REPORTS

Commissioner Flitcroft, Commissioner Collins, Commissioner Tate, Commissioner Alexander, and Commissioner Northern, Commissioner Cunningham, Chairman Haynes, Vice-Chairman Stephenson gave reports on issues of concern to them and the Commission.

Chairman Haynes recessed the meeting Wednesday, April 2, 2008 at 3:33 p.m.

TENNESSEE REAL ESTATE COMMISSION Thursday, April 3, 2008

The Tennessee Real Estate Commission reconvened on April 3, 2008 at 9:10 a.m., in Room 160, Davy Crockett Tower, 500 James Robertson Parkway, Nashville, Tennessee. **The following Commission Members were present: Chairman Charles Haynes, Vice Chairman William "Bear" Stephenson, Commissioner Valerie Joh, Commissioner David Flitcroft, Commissioner Grover Collins, Commissioner Carol Tate, Commissioner Wendell Alexander, Commissioner Gary Cunningham. Commissioner Isaac Northern was absent. Others Present: Eve**

Maxwell, Executive Director, Kathryn Wiseman, Staff Attorney, Mandy Brady, Paralegal, and Kelly McDermott, Administrative Secretary.

Legal Report, Kathryn Wiseman, Staff Attorney (Exhibit)

- 1. 2007080471 – Commissioner Cunningham made a motion to hold a formal hearing; seconded by Commissioner Flitcroft; Vote: 6 Yes, 0 No Commissioner Joh abstained; Motion Carried.**
- 2. 2007048901**
- 3. 2006046611**
- 4. 2006043731**
- 5. 2007050191**
- 6. 2006046621**
- 7. 2007063601**
- 8. 2007068221**
- 9. 2007058111**
- 10. 2007058112**

On the above file numbers (2–10), Vice-Chairman Stephenson made a motion to accept legal counsel’s recommendation to close and flag the file for reapplication; seconded by Commissioner Collins; Unanimous Vote; Motion Carried.

- 11. 2007065651**
- 12. 2007066531**
- 13. 2007069481**
- 14. 2007069531**
- 15. 2007072141**
- 16. 2007074991**
- 17. 2007078202**
- 18. 2008000651**

19. 2007057461

On the above file numbers (11-19), Commissioner Alexander made a motion that one of each of the files be assigned to each Commissioner and a report be made in May; seconded by Commissioner Flitcroft; Unanimous Vote; Motion Carried.

Commissioner Collins made a motion that the Commission not accept any anonymous complaints other than media complaints; seconded by Commissioner Joh; opened to discussion; Vote: 5 No, 3 Yes; Motion Failed.

Commissioner Alexander made a motion to have Deputy Commissioner Mary Moody or Commissioner Leslie A. Newman clarify in writing about how anonymous complaints should be processed; seconded by Vice-Chairman Stephenson; Unanimous Vote; Motion Carried.

20. 2006044351 – Commissioner Joh made a motion to dismiss; seconded by Collins; Unanimous Vote; Motion Carried.

21. 2007088591 – Commissioner Flitcroft made a motion to dismiss; seconded by Commissioner Collins; Unanimous Vote; Motion Carried.

22. 2007078201 – Commissioner Joh made a motion to accept legal counsel's recommendation to close with a Letter of Caution; seconded by Commissioner Flitcroft; Unanimous Vote; Motion Carried.

23. 2007051571 – Commissioner Collins made a motion to accept legal counsel's recommendation to issue a Consent Order with a Civil Penalty equal to 1% of sales prior to licensure; seconded by Commissioner Tate; opened to discussion; Commissioner Alexander made a motion to defer so Ms. Wiseman may determine the dollar amount of 1% of sales prior to licensure; seconded by Commissioner Cunningham; Motion to defer supersedes the motion to accept legal counsel's recommendation; Unanimous Vote; Motion to defer Carried.

24. 2006038841 – Commissioner Flitcroft made a motion to close and flag the file; seconded by Commissioner Joh; Unanimous Vote; Motion Carried. Commissioner Flitcroft made a motion to open a complaint against the respondent's principal broker at the time of the complaint; seconded by Vice-Chairman Stephenson; Unanimous Vote; Motion Carried.

25. 2006045201 – Vice-Chairman Stephenson made a motion to take legal counsel's recommendation to close with a Cease & Desist and a Letter of Instruction; seconded by Commissioner Flitcroft; Unanimous Vote; Motion Carried.

- 26. 2005044971 – Commissioner Cunningham made a motion to defer; seconded by Commissioner Alexander; Unanimous Vote; Motion Carried.**

Commissioner Carol Tate left the meeting at 11:15 a.m. and did not return.

- 27. 2006028911 – Vice-Chairman Stephenson had previously reviewed the complaint and recommended dismissal. Commissioner Collins made a motion to dismiss; seconded by Commissioner Tate; opened to discussion; Vote: 5 Yes, 0 No; Vice-Chairman Stephenson abstained; Motion Carried.**

- 28. 2007062261 – Commissioner Collins made a motion to dismiss; seconded by Commissioner Joh; Unanimous Vote; Motion Carried.**

- 29. 2007072591 – Commissioner Joh made a motion to dismiss; seconded by Commissioner Collins; Unanimous Vote; Motion Carried.**

- 30. 2007049121 – Commissioner Joh made a motion to close the complaint; Motion Failed for lack of a second; Commissioner Collins made a motion to issue a Consent Order with a Civil Penalty of \$1,000.00 against each individual for each occurrence; seconded by Commissioner Flitcroft; Unanimous Vote; Motion Carried.**

- 31. 2007055631 – Commissioner Flitcroft made a motion to dismiss; seconded by Commissioner Collins; Unanimous Vote; Motion Carried.**

- 32. 2006029971 – Commissioner Alexander made a motion to follow through on the decision reached previously on this complaint. The decision was to authorize a formal hearing and issue a Consent Order with a Civil Penalty of \$1000.00 and require 8 hours of continuing education in contract writing within 90 days; seconded by Commissioner Collins; Commissioner Flitcroft made a friendly amendment that the respondent must prove to an auditor she has an escrow account in place; Commissioner Alexander and Commissioner Collins accepted the friendly amendment to their motion and second; Unanimous Vote; Motion Carried.**

- 33. 2006033762**

- 34. 2006033761**

On the prior two complaints (33-34), Commissioner Flitcroft previously reviewed the complaint. He made a recommendation to issue a Consent Order with Civil Penalty of \$500.00 to the seller's agent and buyer's agent and require both to attend 8 hours in contract writing continuing education to be completed within 90 days. Commissioner Joh made a motion to issue a Consent Order with a Civil Penalty of

\$500.00 to the seller's agent only and requiring both the buyer's agent and seller's agent attend 8 hours in contract writing continuing education within 30 days; Motion Failed for lack of second. Commissioner Collins made a motion to issue a Consent Order requiring 8 hours of contract writing continuing education within 30 days and if they do not comply, they will be issued a Consent Order with a Civil Penalty of \$500.00; Motion Failed for lack of a second; Commissioner Alexander made a motion to accept Commissioner Flitcroft's recommendation to issue a Consent Order with a Civil Penalty of \$500.00 to the seller's agent and buyer's agent and both must attend 8 hours in contract writing continuing education to be completed within 90 days; seconded by Commissioner Cunningham; Vote: 6 Yes, 0 No; Commissioner Flitcroft abstained; Motion Carried.

35. 2006035161 – Commissioner Collins made a motion to take legal counsel's recommendation and close and monitor litigation; seconded by Commissioner Flitcroft; Unanimous Vote; Motion Carried.

The Commission and Ms. Wiseman reviewed and discussed the Legal Review Report and the Consent Order Log.

Commissioner Flitcroft made a motion to hold a formal hearing at the June 2008 meeting on complaint number 2007080471 (#1 on legal report); seconded by Commissioner Alexander; Unanimous Vote; Motion Carried.

Commissioner Cunningham made a motion to defer the discussion of Ms. Maxwell's "Management by Objective" report until the May 2008 meeting; seconded by Commissioner Alexander; Unanimous Vote; Motion Carried.

Comments from Attendees

Chairman Haynes called for comments from the attendees.

Licensees who attended the Commission meeting in order to obtain continuing education credits appeared before the Commission and gave statements regarding what they had learned from the meeting.

Chairman Haynes adjourned the meeting Thursday, April 3, 2008 at 12:32 p.m.